

U.S. Serial No. 10/707,433

REMARKS

In response to the Examiner's Reasons for Allowance, Applicant believes that a Statement of Reasons for Allowance is wholly unnecessary and inappropriate in the present case as the file history sufficiently sets forth the patentable distinctions of claims - 14, 16-22 and 24-26.

The Examiner purports to "reopen prosecution"; however, prosecution is deemed not reopened and it is believed that the Examiner's claim of reopening prosecution is wholly inappropriate. Applicant notes that the Notice of Panel Decision from Pre-Appeal Brief Review did not reopen prosecution, but specifically stated that the application was allowable and that "prosecution on the merits remains closed." Accordingly, the Examiner's actions in the Notice of Allowability are deemed moot and are merely noncontrolling *dicta*. It is clear based on the Panel's decision to allow the case, Applicant's arguments in its Pre-Appeal Brief Request for Review were persuasive and on point. It is noted that Applicant agreed to an amendment to the claims that is deemed superfluous has no bearing on overcoming the prior art. The prior art is clearly overcome as set forth in Applicant's Pre-Appeal Brief Request dated December 27, 2005. The addition of the word "then" was agreed to, to appease the Examiner, not to overcome the prior art. As previously argued, Le Roux et al. is directed to a pre-data collection technique. The Examiner attempts to limit the claims by reading more into the claims than what is stated when the Examiner states "that the word 'then' in the **amended independent claims** clarifies that the correcting step, occurs after the entire 'acquisition of the k-space data..." However, nowhere in the claim does it state, or imply, that the "entire" k-space data must be acquired. This is simply not in the claims, and cannot later be read into the claims based on the commentary *dicta* by the Examiner. The Examiner has been overruled by the Panel, as the Panel has allowed the case in its decision.

Further, the patentability of claims 1-14, 16-22 and 24-26 lies in each claim as a whole. That is, a single particular element or feature of a claim does not define the claim's patentability, but rather, it is the combination of elements and the interconnection therebetween that define the invention. The claims cannot be considered to be limited in

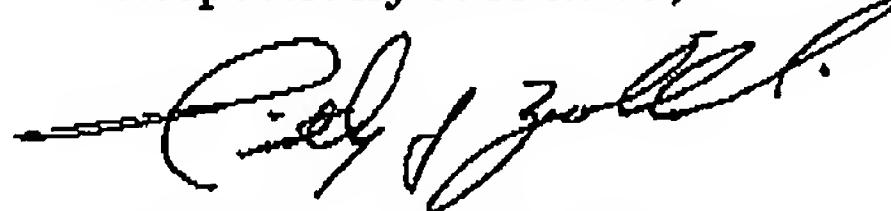
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scope based on the after-the-fact statements by the Examiner. Applicant stands by its position previously set forth in the file history.

Applicant does not acquiesce to the Examiner's statements in the Reasons for Allowance nor the Examiner's paraphrasing of the claim elements. The bolding and underlining in the Examiner's "response to arguments" also have no bearing on claim interpretation since the Examiner has in effect been overruled by the Panel in the Panel's decision dated March 31, 2006.

Entry of these remarks is appreciated and Applicant cordially invites the Examiner to respond, should the Examiner disagree.

Respectfully submitted,



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